

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HANNAH SABATA; DYLAN
CARDEILHAC; JAMES CURTRIGHT;
JASON GALLE; RICHARD GRISWOLD;
MICHAEL GUNTHER; ANGELIC NORRIS;
R. P., a minor; ISAAC REEVES; ZOE RENA;
and BRANDON SWEETSER; on behalf of
themselves and all others similarly situated;

Plaintiffs,

vs.

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES; SCOTT
FRAKES, in his official capacity as Director of
the Nebraska Department of Correctional
Services; HARBANS DEOL, in his official
capacity as Director of Health Services of the
Nebraska Department of Correctional Services;
NEBRASKA BOARD OF PAROLE; JULIE
MICEK, in her official capacity as the Board of
Parole Acting Parole Administrator; and
DOES, 1 to 20 inclusive;

Defendants.

4:17CV3107

ORDER

This matter is before the Court following a telephone conference held with counsel for the parties on August 30, 2018. Plaintiffs requested the telephone conference to discuss several ongoing discovery disputes. In advance of the telephone conference, and as ordered by the Court, counsel for both parties submitted a number of written documents to the undersigned magistrate judge by email, including memorandum arguments and a Joint Discovery Dispute Chart.

While there are numerous areas of dispute identified by the parties in their written submissions, during the telephone conference the parties primarily addressed issues related to Plaintiffs' request that Defendants disclose non-party inmate medical files, and whether a protective order is sufficient to address Defendants' concerns regarding non-party inmates' privacy and HIPAA. Given the nature of this dispute and the potential privacy concerns at stake, the Court will require supplemental briefing on that issue, as well as any other issues that the

parties are unable to resolve following the additional meet and confer(s). In particular, the parties should provide the Court with any authority regarding whether a party can disclose medical records of non-party individuals in a putative class action, without the express consent of the non-parties. As discussed with counsel during the telephone conference, upon receipt of the supplemental briefing, the Court will rule on any outstanding discovery requests identified in the parties' Joint Discovery Dispute Chart.

In accordance with the matters discussed during the telephone conference,

IT IS ORDERED:

1. The parties are to meet and confer to further attempt to resolve their ongoing discovery disputes. On or before **September 13, 2018**, Plaintiffs shall file supplemental briefing on any outstanding disputes. Defendants shall file their supplemental briefing on or before **September 27, 2018**. Unless the Court is notified otherwise, it will then make its rulings on the parties' Joint Discovery Dispute Chart.
2. The Motion ([Filing No. 143](#)) deadline for the document filed by non-party Jesse Blackstock is terminated. The document requires no court ruling and is simply a putative class member's written interest in joining the class, if one is certified.
3. Defendants' Motion to Strike ([Filing No. 145](#)) is unopposed and is therefore granted. Defendants' exhibits at [Filing No. 127-2](#) and [Filing No. 127-47](#) are hereby stricken from Defendants' Index of Evidence ([Filing No. 127](#)), as they were filed in error. The Court will consider the corrected exhibits at [Filing No. 146](#) when ruling on Defendants' Motion for Partial Summary Judgment ([Filing No. 125](#)).
4. Defendants' Motion for Extension of Time ([Filing No. 147](#)) to serve objections to the Plaintiffs' proposed facility tours is granted, as Plaintiffs do not object to the extension.
5. Plaintiffs' Unopposed Motion for Extension of Time to File a Brief in Opposition to Defendants' Motion for Partial Summary Judgment ([Filing No. 151](#)) is granted. Plaintiffs shall have an extension of time to **September 7, 2018**, to file their response to Defendants' Motion for Partial Summary Judgment ([Filing No. 125](#)). Defendants are granted an extension to **September 21, 2018**, to file a Reply.

Dated this 31st day of August, 2018.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge